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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,757

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Johan Georg Pettersson

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EXAMINER

STIMPert, PHILIP EARL

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

08/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,757	Applicant(s) PETTERSSON, JOHAN GEORG	
	Examiner Philip Stimpert	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,5-11 and 13 is/are allowed.
- 6) ☒ Claim(s) 2,3,12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 3 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 2, the claim recites both "at least one given control order" and "which given control orders." Since the second recitation is plural, it excludes the possible singularity of the first recitation. Thus the same limitation is given different scope within the same claim, causing confusion as to the actual intended scope.

4. Regarding claim 3, the claim appears to be drafted in reverse from the specification, i.e. page 10 lines 8-14. In particular, the claim appears to require the control system to move the pressure **away** from the setpoint, rather than toward it. Per telephonic conversation with the applicant's representative, the following paragraph (page 10, lines 16-24) which provides basis for the language of claim 3 appears to have been mistranslated, as it contradicts the previous paragraph, and the reasonable expectations of one of ordinary skill in the art. This contradiction renders the claim indefinite.

5. Regarding claim 12, the claim is drafted as an apparatus claim to a control box for adjusting the compressed air installation of claim 1. However, given that new structure, i.e. the connections and arithmetic unit, is recited, it is unclear whether or not

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the scope of claim 12 is limited by the entirety of the method of claim 1. In particular, no reference is made to the pressure setting limitations, while selection of the control order with the highest score is recited. The lack of clarity regarding the inclusion or exclusion of the limitations of claim 1 renders the claim indefinite. Given this indefiniteness, the examiner is interpreting the claim as standing on its own except for the elements of claim 1 which are specifically mentioned.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,502,842 to Currier et al. (Currier).

8. Currier teaches a control box (10) having connections to control units (R) and a pressure sensor (14), a memory (42) arranged to store an evaluation table with scores (for instance the loading order of col. 15, ln. 25-46) inputted by a user, and an arithmetic unit (18) with an algorithm (see col. 15, ln. 25-46) which enables comparison between the scores to provide a control order (start/stop or load/unload a compressor) as a function of the highest selected score. Thus provided, control box of Currier is capable of storing the given scores of claim 1 and evaluating them as claimed, and the method of claim 1 does not patentably distinguish structure of claim 12 over Currier. See MPEP 2114.

Allowable Subject Matter

9. Claims 1, 5-11, and 13 are allowable over the art of record.
10. Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter: the evaluation table containing various control order scores is not shown in the prior art of record.

Response to Arguments

12. Applicant's arguments filed 3 June 2010 have been fully considered but they are not persuasive.
13. The 35 U.S.C. 112 rejections of claims 1, 5-11, and 13 are withdrawn.
14. However, regarding claim 3, as noted above, the claim still appears to contradict what would be expected by one of ordinary skill in the art, and the specification does not provide sufficient guidance to overcome the fault.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Stimpert whose telephone number is (571)270-1890. The examiner can normally be reached on Mon-Fri 7:30AM-4:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3746

/P. S./
Examiner, Art Unit 3746
13 August 2010